

Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Gerard & John Kehoe,
c/o Thomas O'Brien Consulting Engineer,
19 Willow Court,
Cross Douglas Road,
Cork.

22/05/2024

RE: Section 5 Declaration R848/24 6 Hawthorn Villa's, South Douglas Road, Cork.

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 30/04/2024, I wish to advise as follows:

The Planning Authority in view of the above and having regard to –

- 3 and 4 of the Planning and Development Act 1963 (as amended), and
- Articles 3 and 5 of the Planning and Development Regulations 1964 (as amended),
- Part 1, Class 1 of the Schedule of the Planning and Development Regulations 1964 (as amended),

It is considered that proposed construction of ground floor extension **Is Development** and is **Not Exempted Development** at 6 Hawthorn Villa's, South Douglas Road, Cork.

Under Section 5(3)(a) of the Planning and Development Act, 2000, you may, on payment of the appropriate fee, refer this declaration for review by An Bord Pleanála within 4 weeks of the date it is issued.



We are Cork.

Is mise le meas,

David O'Regan

**Assistant Staff Officer,
Community, Culture &
Placemaking Directorate**

PLANNER'S REPORT Ref. R848/24		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>"Can Cork City Council confirm that (sic) the rear extension to No. 6 Hawthorn Villas as Exempt Development. Constructed late 70's."</i>	
Location	6 Hawthorn Villas	
Applicant	Gerard and John Kehoe	
Date	22/05/2024	
Recommendation	<i>Is Development and Is Not Exempted Development</i>	

Given that the development to which this report refers was built "sometime in the 1970's, in this report 'the Act' means the Planning and Development Act 1963 (as amended) and 'the Regulations' means the Planning and Development Regulations 1964 (as amended), unless otherwise indicated.

1. Requirements for a Section 5 Declaration

Section 5(1) of the Planning and Development Act 2000 as amended states,

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

The requirements for making a section 5 declaration are set out in the Act.

2. The Question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form: *"Can Cork City Council confirm that (sic) the rear extension to No. 6 Hawthorn Villas as Exempt Development. Constructed late 70's."*

3. Site Description

The property in question is an end of terrace 2-storey residential dwelling in a residential cul-de-sac of terrace units.

4. Legislative Provisions

4.1 The Act

Section 3.—(1) "Development" in this Act means, save where the context otherwise requires, the carrying out of any works on, in, or under land or the making of any material change in the use of any structures or other land.

Section 4.—(1) The following shall be exempted developments for the purposes of this Act:

- (a) development consisting of the use of any land for the purposes of agriculture or forestry (including afforestation), and development consisting of the use for any of those purposes of any building occupied together with land so used;
- (b) development by the council of a county in the county health district;
- (c) development by the corporation of a county or other borough in such borough;
- (d) development by the council of an urban district in such district;

- (e) development consisting of the carrying out by the corporation of a county or other borough or the council of a county or an urban district of any works required for the construction of a new road or the maintenance or improvement of a road;
- (f) development consisting of the carrying out by any local authority or statutory undertaker of any works for the purpose of inspecting, repairing, renewing, altering or removing any sewers, mains, pipes, cables, overhead wires, or other apparatus, including the breaking open of any street or other land for that purpose;
- (g) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render such appearance inconsistent with the character of the structure or of neighbouring structures;
- (h) development consisting of the use of any structure or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;
- (i) development consisting of the carrying out of any of the works referred to in the Land Reclamation Act, 1949

(2) (a) The Minister may by regulations provide for any class of development being exempted development for the purposes of this Act and such provision may be either without conditions or subject to conditions and either general or confined to a particular area or place.

(b) Regulations under this subsection may, in particular and without prejudice to the generality of the foregoing paragraph, provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act.

4.2 The Regulations

Article 3.—(1) Subject to sub-article (5) of this article, development of each class specified in column 1 of Part I of the Schedule to these Regulations shall be exempted development for the purposes of the Act, provided such development complies with the limitations specified in the said column 1 in relation to that class and with the conditions specified in column 2 of the said Part I opposite the mention of that class in the said column 1.

(5) Development to which sub-article (1), (2), (3) or (4) of this article relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the metalled part of which is more than 12 feet in width,

(iii) endanger public safety by reason of traffic hazard or any obstruction to the view of persons using any public road at or near any bend, corner, junction or intersection,

(iv) contravene any building regulation made under section 86 of the Act or any byelaw in force under section 41 of the Public Health (Ireland) Act, 1878, in the area in which the land to which the development relates is situated,

(v) comprise the erection, construction, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building

on either side thereof or beyond a line determined as the building line by a resolution of the planning authority for the area,

- (i) of class 1, 2, 12, 16 or 17 specified in column 1 of Part I of the Schedule to these Regulations,
- (ii) consisting of the use of a structure or other land for the exhibition of advertisements of class 4, 5, 8, 9, 13, 14 or 17 specified in column 1 of Part II of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes, or
- (iii) of class 1, 4 or 5 specified in column 1 of Part III of the said Schedule

Part 1, Exempted Development – General.
Development within the curtilage of a dwellinghouse.

Column 1	Column 2
Description of Development	Conditions
Class 1	
The extension of a dwellinghouse by any addition to the rear thereof provided that the original floor area is not exceeded by more than 120 square feet and that the height of the dwellinghouse is not exceeded.	N/a

5. ASSESSMENT

5.1 Development

The first issue for consideration is whether or not the matter at hand is ‘development’.

Development, as defined in Section 3.—(1) of the 1964 Planning and Development Act, means, save where the context otherwise requires, the carrying out of any works on, in, or under land or the making of any material change in the use of any structures or other land.

I consider that the existing constructed 2-storey rear extension therefore constitutes development as it comprised of works on the land.

5.2 Exempted development

There is no known planning history on the site and therefore it is unknown as to whether there are any historic planning conditions for the main dwelling house which could have affected the additional of the extension. In the absence of same, it is considered appropriate therefore to review the exempted development as listed in the accompanying planning regulations (as referred to in Section 3 of the 1963 Act).

Part 1, Class 1 of the Exempted Development list in the 1964 Regulations state the following:

The extension of a dwellinghouse by any addition to the rear thereof provided that the original floor area is not exceeded by more than 120 square feet and that the height of the dwellinghouse is not exceeded.

There are no corresponding limitations/conditions with this Class 1.

The applicant/agent was requested to confirm the units used in the details submitted and they confirmed on the 14/05/2024 that metres have been used. The floor plans provided show that the ground floor extension is 2.9m x 3.160; which is 9.2sq.m; and the first floor is also 9.2sq.m. The total floor area is approx. 18sq.m which equates to 193 square feet. Exempted development only permits an additional 120 square feet to the original dwelling. The extension as constructed exceeds this. The rear extension does not exceed the height of the main dwelling unit.

6. Conclusion

The question has been asked “Can Cork City Council confirm that (sic) the rear extension to No. 6 Hawthorn Villas as Exempt Development. Constructed late 70’s.” Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the construction of rear 2 storey extension is development and is not exempted development.

7. RECOMMENDATION

In view of the above and having regard to —

- 3 and 4 of the Planning and Development Act 1963 (as amended), and
- Articles 3 and 5 of the Planning and Development Regulations 1964 (as amended),
- Part 1, Class 1 of the Schedule of the Planning and Development Regulations 1964 (as amended),

It is considered that proposed construction of ground floor extension **Is Development** and is **Not Exempted Development**.



Mary Doyle
A/ Senior Executive Planner
22/05/2024

Thomas J. O'Brien & Associates

Project Managers, Consulting Engineers, Assigned Certifiers,
Planning Consultants, Health & Safety Consultants.

Date: 28th, April 2024

Our Ref:

Your Ref:

The Planning Department,
Cork City Council,
City Hall,
Cork.

Re: Section 5 Declaration Application.

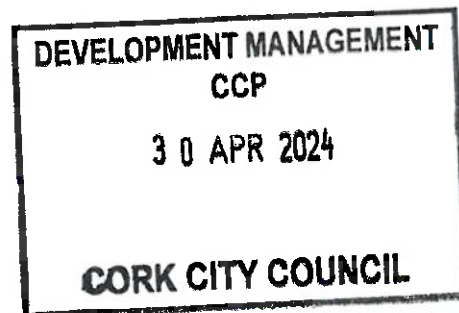
Property; No 6 Hawthorn Villas, South Douglas Road, Cork.

Our Clients: Gerard Kehoe and John Kehoe.

Dear Sir,

I enclose the following. 2 No. copies of all.

1. Site Location Map. Scale 1:1000
2. Ground Floor Plan Scale 1:50
3. First Floor Plan Scale 1:50.
4. Photographs 1-5.
5. Fee of 80€.
6. Application form completed.



Should you require any further information, please contact the undersigned.

Yours sincerely,

Thomas O'Brien Chartered Engineer

19 WILLOW COURT, CROSS DOUGLAS ROAD, CORK.

Mob: 086 2589 610 • Email: info@tjobrien.ie

Thomas J. O'Brien, Managing Director, Chartered Engineer, B.E. C.Eng. EUR. Ing. MBS, (Health & Safety) MIEI;

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

Community, Culture & Placemaking Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail planning@corkcity.ie

Fón/Tel: 021-4924029

Líonra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM
under Section 5 of the Planning & Development Acts 2000 (as amended)

1. NAME OF PERSON MAKING THE REQUEST

Gerard Kehoe & John Kehoe

2. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

6 Hawthorn Villas, South Douglas Road, Cork.

3. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Sample Question: Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

Note: only works listed and described under this section will be assessed under the section 5 declaration.

Can Cork City Council confirm that the Rear Extension to No 6 Hawthorn Villas is exempt Development. Constructed late '70s.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

1. Plan, drawings and maps accompanying an application for a Section 5 Declaration on exempted development shall all be in metric scale and comply with the following requirements:-

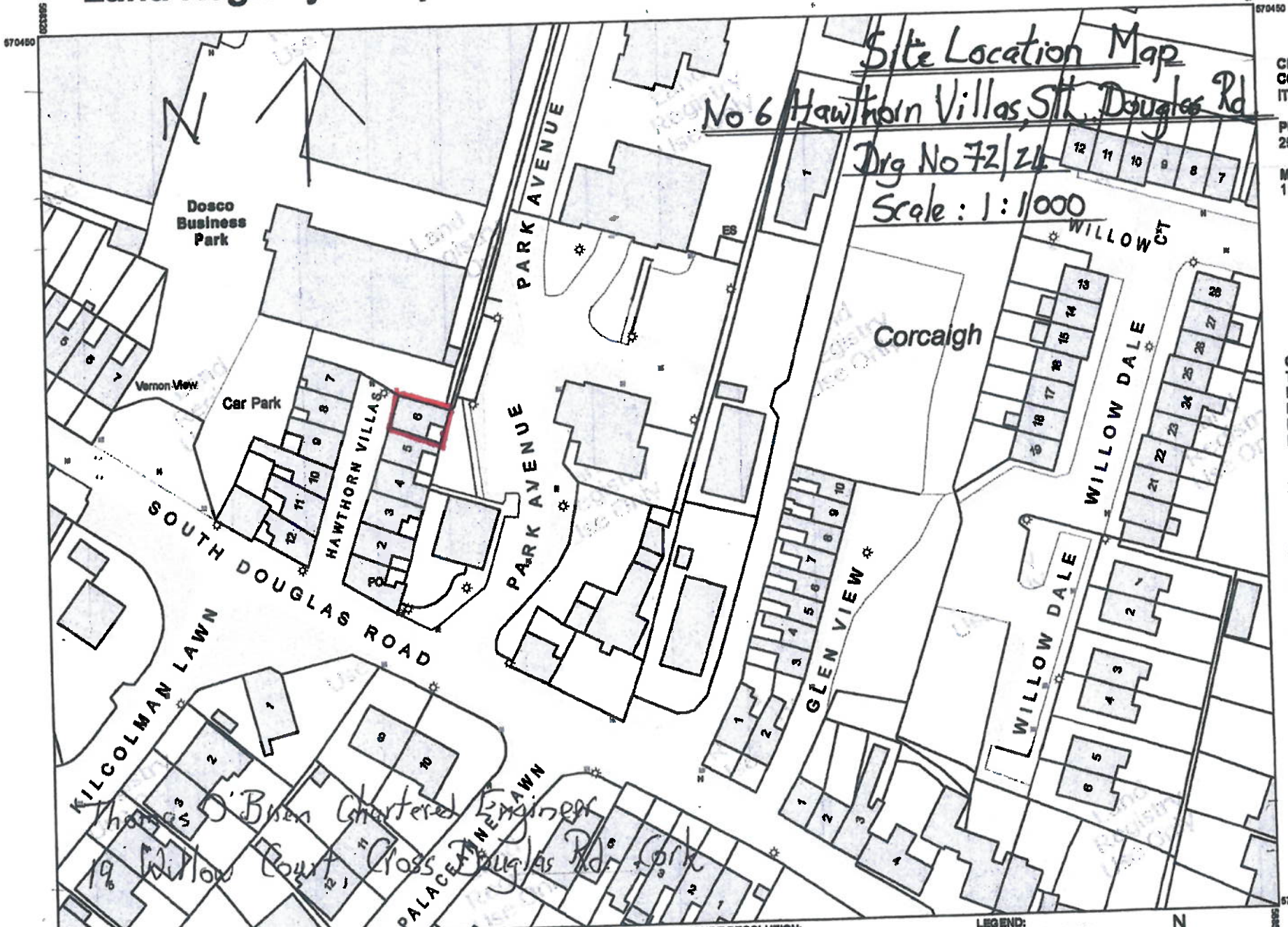
* NOTE 2 COPIES OF PLANS AND PARTICULARS ARE REQUIRED

- (a) site or layout plans shall be drawn to a scale of not less than 1:500 (which shall be indicated thereon), the site boundary shall be clearly delineated in red, and buildings, roads, boundaries, septic tanks and percolation areas, bored wells, significant tree stands and other features on, adjoining or in the vicinity of the land or structure to which the application relates shall be shown, land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant or the person who owns the land, which is subject of the application, shall be outlined in blue and wayleaves shall be shown in yellow,
 - (b) other plans, elevations and sections shall be drawn to a scale of not less than 1:200 (which shall be indicated thereon), or such scale as may be agreed with the Planning Authority prior to the submission of the application in any particular case,
 - (c) the site layout plan and other plans shall show the level or contours, where applicable, of any land and the proposed structures relative to Ordnance survey datum or a temporary local benchmark,
 - (d) drawings of elevations of any proposed structure shall show the main features of any buildings which would be contiguous to the proposed structure if it were erected, whether on the application site or in the vicinity at a scale of not less than 1:200, as may be appropriate,
 - (e) plans relating to works comprising reconstruction, alteration or extension of a structure shall be so marked or coloured as to distinguish between the existing structure and the works proposed,
 - (f) plans and drawings of floor plans, elevations and sections shall indicate in figures the principal dimensions (including overall height) of any proposed structure and the site, and site layout plans shall indicate the distances of any such structure from the boundaries of the site,
 - (g) any map or plan which is based on an Ordnance Survey map shall indicate the relevant Ordnance survey sheet number,
 - (h) the north point shall be indicated on all maps and plans other than drawings of elevations and sections,
 - (i) plans and drawings shall indicate the name and address of the person by whom they were prepared.
2. An application for development consisting of or comprising the carrying out of works to a protected structure, or proposed protected structure or to the exterior of a structure which is located within an architectural conservation area in a draft of a proposed development plan or a proposed variation of a development plan, shall, in addition to meeting the requirements above, be accompanied by such photographs, plans and other particulars as are necessary to show how the development would affect the character of the structure.
3. A planning authority may, by notice in writing, require an applicant to provide additional copies of any plan, drawing, map, photograph or other particular, which accompanies the application.

Land Registry Compliant Map



Taite Éireann



Site Location Map
No 6 Hawthorn Villas, Sth. Douglas Rd
Drg No 72/24
Scale: 1:1000

CENTRE COORDINATES:
 ITM 568437,570364

PUBLISHED: 25/03/2024
ORDER NO.: 50390847_1

MAP SERIES: 1:1,000
MAP SHEETS: 6383-21

COMPILED AND PUBLISHED BY:
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 Phoenix Park,
 Dublin 8,
 Ireland.
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OUTPUT SCALE: 1:1,000

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LEGEND:
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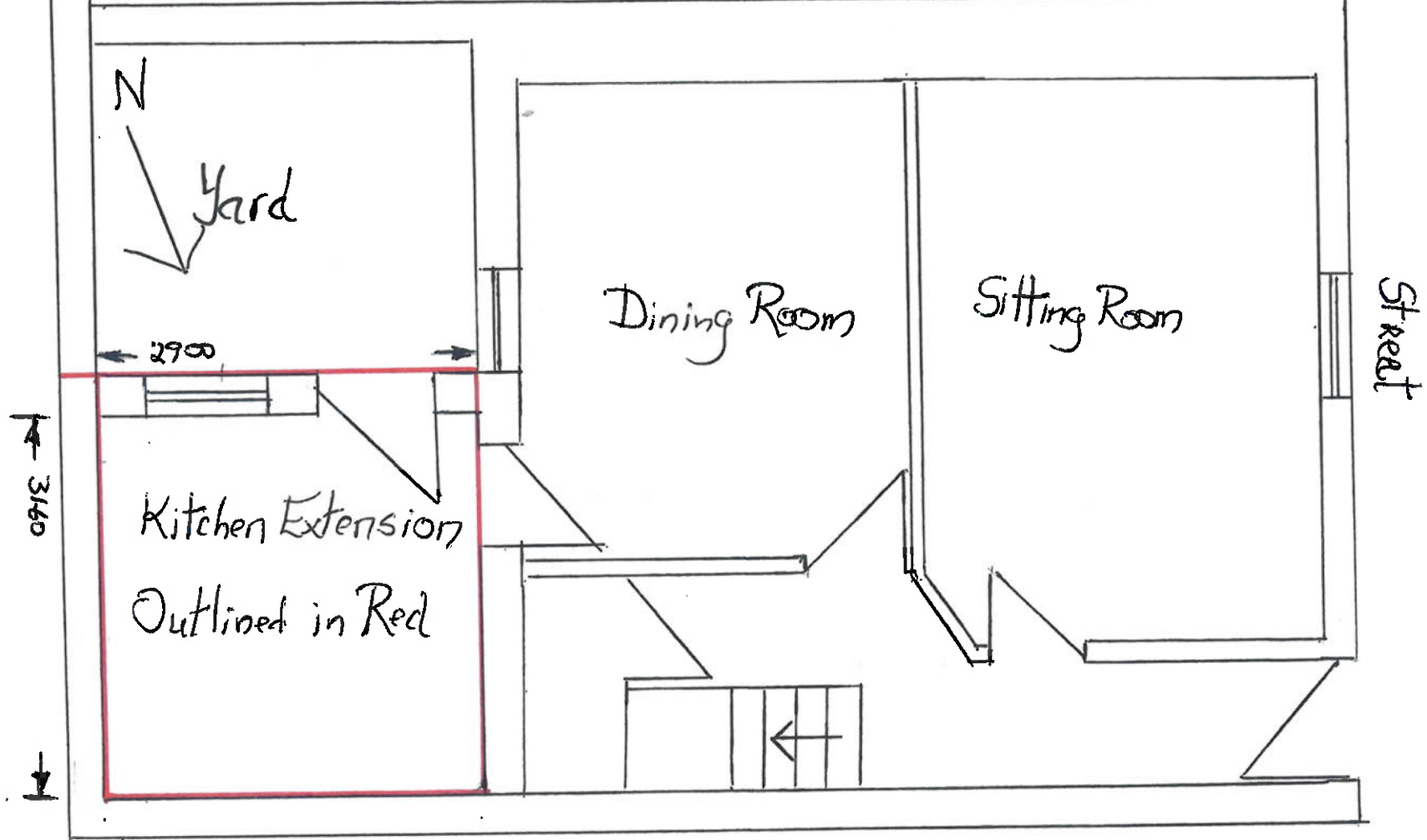
670278

670278

Thomas O'Brien Chartered Engineer
19 Willow Court Cross Douglas Rd. Cork

Drq No 73/24
Scale: 1:50

Thomas O'Brien
Chartered Engineer
19 Willow Court, Cross Douglas Rd.
Cork

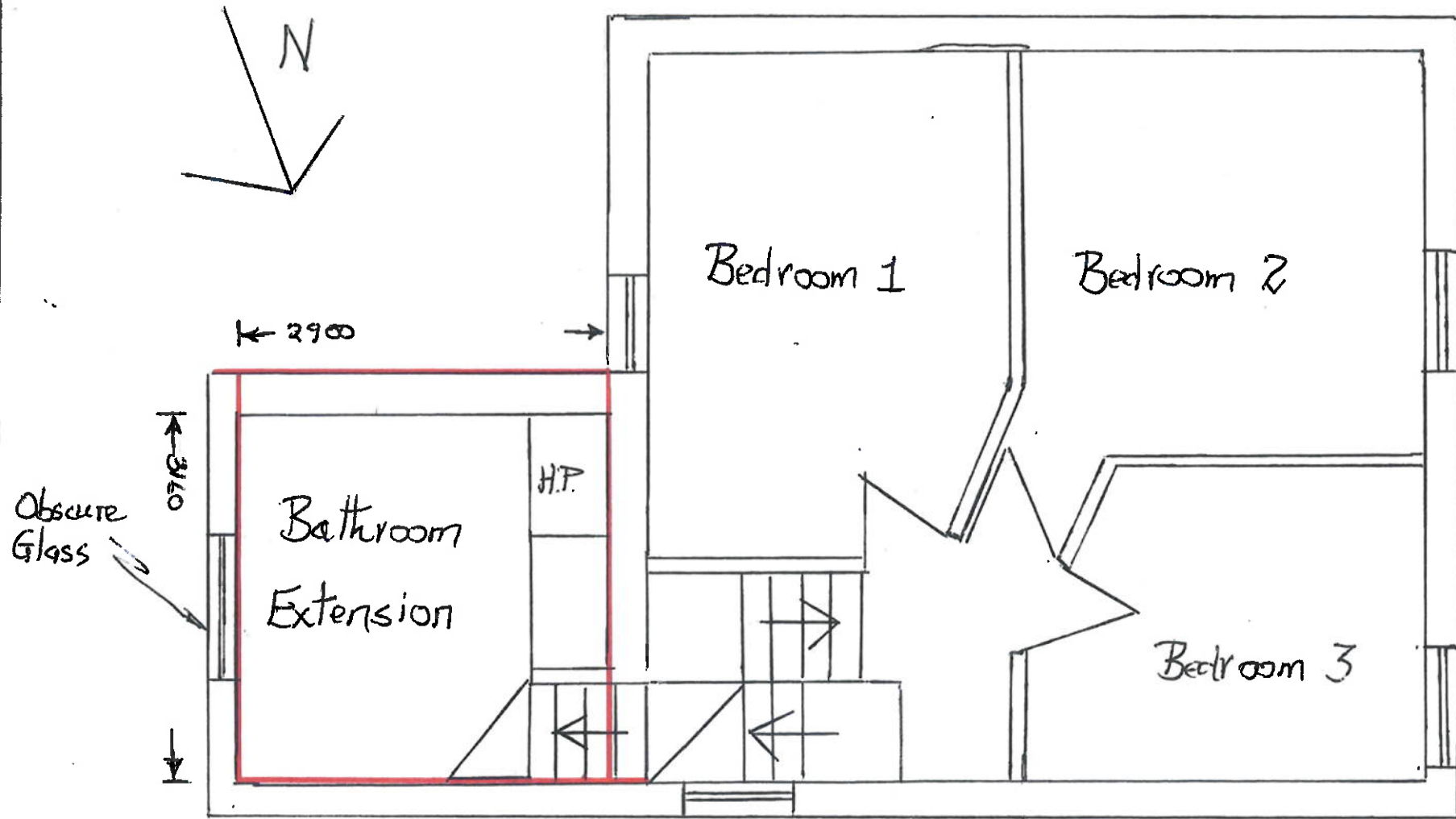


Ground Floor Plan No 6 Hawthorn Villas, South Douglas Road, Cork

Dwg No 74/24

Scale: 1:50

Thomas O'Brien Chartered Engineer
19 Willow Court, Cross Douglas Road Cork.



First Floor Plan, No 6 Hawthorn Villas, South Douglas Road Cork.

①



Looking into New Bathroom



Looking at Extension from Yard

3



Rear View from Park Avenue



Side View from Park Avenue

5



Side View from Park Avenue